



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Chief Larry Esquivel  
Julia H. Cooper

**SUBJECT: GAMING CONTROL  
REORGANIZATION**

**DATE:** May 28, 2013

Approved \_\_\_\_\_

Date \_\_\_\_\_

5/28/13

## RECOMMENDATION

Direct the administration to proceed with activities related to the reorganization of the Gaming Control Division and transfer appropriate functions to the Finance Department.

## BACKGROUND

The Gaming Control Ordinance (Title 16 of the San José Municipal Code) enacted by the City Council on November 9, 1999, created the Division of Gaming Control within the Police Department. The Division of Gaming Control is charged with carrying out the licensing, permitting, revenue and tax auditing, regulatory compliance testing, regulation promulgation, and other administrative functions pursuant to the regulatory program outlined in the Ordinance. In addition, the City levies a 15% gross receipts tax on cardroom gaming revenue.

Since the 1999 adoption of Title 16 by the City Council, the function of Gaming Control has been a division of the San Jose Police Department. As a part of the 2012-2013 budget process and ongoing civilianization as recommended in the City Auditor's report *Audit of Civilianization Opportunities in the San José Police Department* and in the consultant WhiteSand Gaming report *Division of Gaming Control Staffing Plan*, the Police Department has been in the process of restructuring the Division of Gaming Control to increase the number of auditors/accountants in the Division and reduce the number of sworn officers assigned to the Division. The current approved structure of the Division within the Police Department includes 1.0 Deputy Director, 1.0 Supervising Auditor, 3.0 Senior Auditors and 2.0 Staff Specialist positions. The cost of these positions is fully recovered by the cardroom regulatory table fees and work permit fees. Currently, the officers continue to work in the Division as 2.0 Senior Auditor positions are vacant. Recruitment for the senior auditor positions is ongoing and once filled, the officers will be redeployed.

In the City Council approved Mayor's March Budget Message for Fiscal Year 2013-2014, the City Manager was directed to consider transferring the Division of Gaming Control to another City Department, with the necessary support of the Police Department as needed. A transfer from the Police Department to the Finance Department would facilitate a new focus on revenue auditing and tax compliance activities and address outstanding audit recommendations related to Gaming Control.

## **ANALYSIS**

In response to the 2013-2014 Mayor's March Budget Message as approved by the City Council, an interdepartmental effort has been undertaken to explore options for the management and oversight of the City's Division of Gaming Control currently located in the Police Department. The Finance Department has been identified as a department where the current activities of monitoring and auditing for tax and revenue compliance create a synergy with the activities associated with monitoring and auditing card rooms for revenue and tax compliance activities. At this time, the Administration will proceed with the steps necessary to reorganize the Division by moving forward with the development of a workplan that will outline critical steps including staffing recommendations, office space changes, budgetary impacts, and a timeline for implementation. Currently, it is anticipated that retaining the permitting and licensing functions in the Police Department would provide access to support from sworn personnel.

### **Synergy with the Finance Department**

The activities currently undertaken in the Finance Department, Revenue Management Division include revenue and tax compliance for the General Business Tax, Cardroom Business Tax, Disposal Facility Tax, Marijuana Business Tax, Sales and Use Tax, Telephone Line Tax (TLT), Electricity Utility Tax, Gas Utility Tax, Water Utility Tax, Telephone Utility Tax, Transit Occupancy Tax (TOT), Convention Center Facilities District (CCFD) Tax, and Hotel Business Improvement District (HBID) Fee. The aggregate revenue estimate associated with these taxes currently monitored by the Finance Department totals approximately \$377 million per year (2013-2014 Proposed Operating Budget). To augment City staffing resources, the Finance Department engages various consultant services to audit for tax compliance and ensure all taxes due are being remitted. Most recently, the Finance Department, Revenue Management Division has also played a key role in implementing the Marijuana Business Tax and maintaining compliance with Chapter 4.66 of the San Jose Municipal Code.

The technical expertise of staff within the Finance Department could be leveraged with the Gaming Control team. The professional staff working in each area could work together to improve processes and enhance revenue collection for the City. Such realignment would also focus the Gaming Control function on the fundamentals of tax auditing and compliance, a core service within the Finance Department.

Additionally, the City has engaged WhiteSand Gaming, an external gaming consultant firm, to provide recommendations regarding best practices in the industry for the organizational structure of the Gaming Control function. This report is expected to be completed by the end of June 2013.

### **Contemplated Organizational Structure by Function**

The City hired a consultant, WhiteSand Gaming, to assist in the evaluation of the Division and to make recommendations on how the functions of the Division could be restructured, including staffing considerations. Based on preliminary internal discussions, it is anticipated that the auditing and compliance functions of the Division of Gaming Control would be transferred to the Finance Department and the permit and licensing functions would remain with the Police Department. The licensing and permitting functions of the Gaming Control program would be reorganized within the current Permits Unit within the Police Department. This structure would provide access to support from sworn personnel and the necessary coordination with external law enforcement agencies when sharing criminal background information. Any need for criminal investigations would continue to be referred to the Vice Unit within the Police Department, which is the current policy. Final analysis of the reorganization will take into consideration recommendations pending from the consultant, identification of duties and staffing allocations, and budgetary transactions necessary for implementation.

### **Office Space**

The Division of Gaming Control is currently leasing space for their operations. The workplan will outline proposals for potential changes to the current office space arrangements including addressing the technology needs of the Gaming Control program. These changes will be explored in 2013-2014 with necessary changes occurring prior to the end of the current lease in October 2013.

### **Budget Implications**

The development and execution of the workplan for the reorganization of the Division of Gaming Control will take place in 2013-2014. Recommendations regarding staffing levels, organizational structure and a complete review of the 2013-2014 Fees and Charges will be developed for inclusion in the report back to Council in fall 2013, prior to implementation.

### **Proposed Timeline for Implementation**

In order to ensure a smooth transition of the management responsibility for the Gaming Control function, the targeted date for the transfer to take place is scheduled for January 2014. This will allow the Police and Finance Departments time to work together regarding the organizational structure and facilitate the transition, bring forward applicable changes to the Municipal Code, Title 16, for City Council consideration, and reach out to the cardrooms. As part of the 2014-2015 annual budget process, recommended adjustments to the organizational structure between

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the Finance and Police Departments structure will be included in both the 2014-2015 Proposed Operating Budget and the 2014-2015 Proposed Fees and Charges documents.

**COORDINATION**

This memorandum has been prepared by the Finance Department in coordination with the Police Department, the City Manager's Budget Office and the City Attorney's Office.

/s/  
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/s/  
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